

EXHIBIT A

CAUSE NO. C-2779-17-F

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|----------------------------------|---|-------------------------|
| HUGO E. SARABIA | § | IN THE DISTRICT COURT |
| | § | |
| VS. | § | _____ JUDICIAL DISTRICT |
| | § | |
| COLIMAR, INC. D/B/A | § | |
| COLIMAR INTERNATIONAL LOGISTICS; | § | |
| SERGIO BLANCAS MONTES; AND | § | |
| CORNELIOS TRUCKING | § | |
| REFRIGERADOS SA DE CV | § | HIDALGO COUNTY, TEXAS |

**PLAINTIFF'S ORIGINAL PETITION and
PLAINTIFF'S REQUESTS FOR DISCLOSURE TO DEFENDANTS**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **HUGO E. SARABIA**, Plaintiff herein, complaining as specified herein below of COLIMAR, INC., D/B/A COLIMAR INTERNATIONAL LOGISTICS; SERGIO BLANCAS MONTES; and CORNELIOS TRUCKING REFRIGERADOS SA DE CV, Defendants herein, and hereby files Plaintiff's Original Petition and Request for Disclosure to Defendants, and also respectfully shows the Court the following:

I.

This case is intended to be conducted as a Level 2 discovery control plan case.

II.

Plaintiff is a resident of Mission, Hidalgo County, Texas.

III. (a)

Defendant COLIMAR, INC. D/B/A COLIMAR INTERNATIONAL LOGISTICS, is a Texas corporation which may be served with process by serving its duly designated registered agent, by certified mail, return receipt requested to: Joaquin Spamer, 802 Trinity, Mission, Texas, 78572.

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Defendant SERGIO BLANCAS MONTES is an individual who resides in the republic of Mexico. His attorney, Gregory J. Peterson of Goldman & Associates, has agreed to accept service by email. He will be served with a copy of this petition as per the certificate of service below.

III. (b)

Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV, is a Mexican company based/located in Uruapan, Michoacan which does business in the state of Texas pursuant to regulations of the United States Department of Transportation under motor carrier I.D. number/USDOT number 1220013. Its attorney, Gregory J. Peterson of Goldman & Associates, has agreed to accept service by email. He will be served with a copy of this petition as per the certificate of service below.

IV.

This suit is brought pursuant to the law of negligence and venue is proper in Hidalgo County, Texas since the motor vehicle collision made the basis of this suit occurred in Hidalgo County, Texas and since the Defendant COLIMAR, INC. is a Texas corporation with its principal place of business in Hidalgo County, Texas.

V.

A vehicular collision occurred inside the premises of Colimar International Logistics located at 802 Trinity Street in Mission, Hidalgo County, Texas on or about the date of June 25, 2015 at approximately 12:09 p.m. between a truck tractor driven by the Plaintiff HUGO E. SARABIA and a truck tractor operated by Defendant, SERGIO BLANCAS MONTES. At said time and place, the Plaintiff was operating a 2007 Peterbilt truck tractor (owned by his employer D & D Transport) and was leaving a loading dock of COLIMAR INTERNATIONAL LOGISTICS when the Defendant SERGIO BLANCAS MONTES operating a 2015 Kenworth T880 truck

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tractor in reverse suddenly and without warning collided into the driver's side of the Plaintiff's 2007 Peterbilt truck tractor. The Defendant SERGIO BLANCAS MONTES was at the time of the collision operating the 2015 Kenworth tractor-trailer that was owned by his employer and while he was in the course and scope of his employment for his employer, the Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV. As a proximate result of the above described collision, the Plaintiff HUGO E. SARABIA suffered serious, severe and disabling personal bodily injuries. Said collision and the bodily injuries suffered by Plaintiff were a proximate result of the negligence of the Defendant SERGIO BLANCAS MONTES and also a proximate result of the negligence of owners, employees, supervisors, officers and/or directors of the Defendant COLIMAR, INC. doing business as COLIMAR INTERNATIONAL LOGISTICS.

VI.

The collision in question and the injuries to the Plaintiff were proximately caused by the negligent acts and/or omissions of the Defendant SERGIO BLANCAS MONTES, in, but not limited to, the following particulars:

- 1) Driving a vehicle in willful or wanton disregard for the safety of persons or property;
- 2) Failing to keep a proper lookout;
- 3) Failing to properly and timely apply brakes;
- 4) Failing to maintain proper control of his vehicle;
- 5) Failing to turn his vehicle to avoid an impending collision;
- 6) Failing to give proper warning of an impending collision;
- 7) Failing to control his vehicle's speed;
- 8) Traveling in reverse at a greater rate of speed than a person of ordinary prudence would do under the same or similar circumstances;
- 9) Backing when unsafe.

VII.

Plaintiff will also show that at the time of the collision in question the Defendant SERGIO BLANCAS MONTES was an employee of the Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV and was acting within the course and scope of his employment

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duties for said employer/Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV at the time of the collision. Therefore, Plaintiff hereby asserts that the Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV is legally responsible and liable for the negligence of its employee/the Defendant SERGIO BLANCAS MONTES, and for the injuries to Plaintiff proximately caused thereby, by reason of the doctrine of respondeat superior.

VIII.

Moreover, Plaintiff also maintains that Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV in entrusting the 2015 Kenworth truck tractor in question to Defendant SERGIO BLANCAS MONTES committed various acts and/or omissions, each of which constituted negligence, and each of which was the proximate cause of the occurrence in question and, specifically a proximate cause of the multiple bodily injuries, and varied legal damages to the Plaintiff.

The Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV, knew or should have known by the exercise of reasonable care that Defendant SERGIO BLANCAS MONTES was not competent to operate the 1997 Freightliner truck tractor in question in a safe and prudent manner by virtue of Defendant SERGIO BLANCAS MONTES's lack of proper training and education regarding operation of commercial truck tractor and semi-trailer rigs, and his habitual propensity to drive motor vehicles in violation of the traffic laws and regulations of the state of Texas and of other jurisdictions, all of which was known by or should have been known by the Defendant CORNELIOS TRUCKING REFRIGERADOS SA DE CV by the exercise of reasonable care.

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Plaintiff also maintains that Defendant COLIMAR, INC. D/B/A COLIMAR INTERNATIONAL LOGISTICS (“Colimar”) is owner of the premises in question and negligently failed to establish appropriate and effective traffic control rules and regulations and/or was negligent in enforcing whatsoever appropriate traffic control regulations may have existed on the premises/real property in question which included the loading dock ingress and egress areas where the collision made the basis of this lawsuit occurred. Among other acts of negligence, Colimar was negligent in allowing Defendant Montes to unhook his tractor from his trailer and to drive away while the trailer was still in the loading dock. Such negligence of Defendant Colimar and its owners, employees, supervisors, officers and/or directors as aforesaid was a proximate cause of the occurrence in question and also a proximate cause of Plaintiff's injuries and legal damages.

X.

As a proximate result of the several Defendants' negligence, the Plaintiff HUGO E. SARABIA has been injured in the following particulars, in reasonable probability:

- 1) Necessary and reasonable medical expenses, past and future;
- 2) Physical pain and mental anguish, past and future;
- 3) Physical Impairment/Loss of physical capacity, other than wage earning capacity, past and future.
- 4) Lost wages and loss of wage earning capacity, past and future; and
- 5) Scarring and disfigurement, past and future.

XI.

Should it be shown that the Plaintiff was suffering from any pre-existing injury, disease and/or condition at the time of the collision in question, then Plaintiff will show that the same was aggravated and/or exacerbated by the superimposition of the trauma caused by the above described collision.

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Plaintiff also hereby provides notice of intent to utilize items produced in discovery against the party producing same. The authenticity of such items will be deemed self-proven to the extent permitted by TRCP 193.7.

WHEREFORE, PREMISES OF THIS PETITION CONSIDERED, Plaintiff hereby prays for judgment to be rendered against the Defendants, jointly and severally, for Plaintiff's actual damages in an amount of over \$1,000,000.00 favoring the Plaintiff, in accordance with T.R.C.P. 47 (c) (5), as well as for pre-judgment interest, post-judgment interest, court costs, and all such other relief, at law or in equity, to which the Plaintiff may be justly entitled from the Defendants.

XII.

PLAINTIFF'S REQUESTS FOR DISCLOSURE TO DEFENDANTS

PURSUANT TO Texas Rules of Civil Procedure, Rule 194, each Defendant is requested to disclose, within fifty (50) days of the service of this petition and request, the information or material described in Rule 194.2(a)-(I), including specifically:

- (a) The correct names of the parties to the lawsuit;
- (b) The name, address, and telephone number of any potential parties;
- (c) The legal theories and, in general, the factual basis of the responding party's claims or defenses;
- (e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- (f) For any testifying expert:
 - (1) The expert's name, address, and telephone number;
 - (2) The subject matter on which the expert will testify;

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(3) The general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;

(4) If the expert is retained by, employed by, or otherwise subject to the control of the responding party:

(A) All documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) The expert's current resume and bibliography;

(g) All discoverable indemnity and insuring agreements;

(h) All discoverable settlement agreements;

(i) All discoverable witness statements;

(j) All medical records and bills in your possession that are reasonably related to the physical and/or mental injuries or damages asserted by Plaintiff to have resulted from the occurrence that is the subject of this case;

(k) All medical records and bills obtained by the responding party by virtue of an authorization, if any, furnished by Plaintiff; and

(l) The name, telephone number, and address of each person or entity that Defendant claim is a responsible third party.

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Respectfully Submitted,

PERALEZ FRANZ L.L.P.

1416 Dove Ave.

McAllen, Texas 78504

(956) 682-3660

(956) 682-3848 Fax

By: 

Chris Franz

State Bar Number 00792514

Gil P. Peralez

State Bar Number: 00791426

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2017, this Plaintiff's Original Petition and Requests for Disclosure were served on counsel for Defendants SERGIO BLANCAS MONTES and CORNELIOS TRUCKING REFRIGERADOS SA DE CV as follows:

Gregory J. Peterson

Via email: greg@ljglaw.com

10100 Reunion Place, Suite 800

San Antonio, Texas 78216


Chris Franz